

# Marsh News China

News for Marsh clients in China



## Navigating insurance regulations in China

The pace of change in the Chinese regulatory environment is almost as rapid as the expansion of the Chinese economy – the world’s fastest growing. For companies operating in China, navigating the evolving regulations and insurance environment can be a big challenge.

“The insurance market in China has been growing 20 per cent year-on-year in terms of premiums written,” says Marsh’s Vice President in Shanghai, Martyn Sinclair. “The China Insurance Regulatory Commission is actively promoting the expansion of the insurance market in China by encouraging the insurance companies here to develop new insurance products and to consider underwriting new risks like Directors & Officers, Environmental and Professional Indemnity, to name a few.”

With the rapid development in the Chinese insurance market, companies would be well-advised to transfer risks located in China from their global policies to the local insurance market. Policies must be placed with insurers that are licensed to do business by the Chinese Government (with the exception of International Marine, Aviation and Transportation insurance), according to insurance law in China.

There are no specific Chinese regulations prohibiting companies from relying on coverage provided by Difference in Conditions (DIC) / Difference in Limits (DIL) policies purchased outside China. However, companies relying on this global coverage can run into a series of complications. Worldwide DIC/DIL policies must have been purchased outside China by a company arm separate to its Chinese legal entity. Premiums must be billed and paid for outside of China by the non-Chinese legal entity and proceeds from claims similarly paid to a non-Chinese legal entity of the insured.

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### KEY POINTS

- Insurance regulations in China are changing rapidly as the Central Government responds to the expanding economy
- Companies are advised to insure themselves in China, rather than rely on global DIC/DIL coverage, to avoid complicated tax implications

## Global versus Local - What you need to know

While companies may rely on their DIC/DIL coverage, in the event of a loss in China restoring the Chinese entity could raise some complex issues:

- Claims proceeds paid offshore to the parent (or another non-Chinese entity) could be subject to tax as “income” by the relevant tax authorities as that entity did not actually suffer the insured loss. Conversely, if the Chinese entity that suffered a loss was self-insured, it could seek tax relief on the costs incurred as part of normal financial processes
- Transferring claims proceeds into China is subject to the Chinese regulations governing the administration of foreign exchange control. This could potentially result in additional frictional costs associated with the conversion
- Depending on how the parent company wants to restore the Chinese legal entity (if at all), there may be unfavorable tax consequences for the transaction in capitalizing that entity

Any of these issues could reduce the proceeds of a claim from a DIC/DIL insurance program. They could also restrict the repatriation of funds to the Chinese legal entity as an insurance indemnity or recovery.

To understand the options available to your business to avoid unfavorable tax treatment, contact your tax and legal advisors.

To find out more about insurance and risk transfer options in the Chinese market, contact Martyn Sinclair, Vice President with Marsh in Shanghai on telephone +86 21 6887 3118 or email [Martyn.Sinclair@marsh.com](mailto:Martyn.Sinclair@marsh.com).

## Navigating the insurance regulatory environment in China



### D&O Insurance

While many international insurers represented in China are authorized to write Directors' and Officers' liability insurance, it is advisable to discuss the ability of your current D&O insurer to provide locally admitted coverage. Alternatively, a separate policy for the local operation in China can be arranged. As many entities are joint ventures, they may not be automatically covered under a worldwide insurance program and a local policy may be the answer to the issue.

For further information, contact Stella Tse on email [stella.tse@marsh.com](mailto:stella.tse@marsh.com).

### Environmental Risk and Insurance in China

Environmental impairment liability (EIL) insurance is another class of insurance which warrants careful consideration. The specialist environmental insurance market in China is in its infancy - only one multinational insurer is currently providing locally-admitted EIL insurance in certain provinces. Other insurers will soon follow suit. EIL policies are designed to fill the gaps in pollution cover routinely evident under general liability and property policies. Such gaps include clean-up costs for polluted soils and groundwater at the insured's site(s), all losses arising from gradual pollution events and/or certain specific pollutants (both first & third party claims) and regulatory mandated clean-up costs.

For further information, contact Jim Fynamore on telephone +65 6332 0288 or email [Jim.Fynamore@marsh.com](mailto:Jim.Fynamore@marsh.com).

## Could your business survive a major logistical interruption?

### Top Risk Issues in Asia

Natural Disasters	Quality and Counterfeiting
Terrorism	Pandemics
Fraud and Corruption	Regulatory Risks
Ethical Risks	Financial Risks
Infrastructure Risks	Social Risks

### Risk statistics – product recall and counterfeiting

**1 in 10 IT products sold worldwide may be fake, costing companies US\$100bn**

KPMG

**Counterfeiting goods are worth more than £9bn in the UK with 65% originated from China**

The Alliance Against IP Theft

### Product liability and recall

Headlines have been dominated by news of recalls of Chinese-made products numbering in the tens of millions in recent months. As the supply chains of companies in China have come under this threat, many are turning their attention to insuring for injury and property damage that could result from negligence or insufficient contractual obligations.

International companies setting up either in their own right or within joint ventures have been the drivers of insuring for exposure to liability in China as a result of litigious environments in the United States and Europe. However, Chinese companies have been slower to embrace liability insurance typically because awards from the court system have been low and slow to arrive. Also, consumers in China have usually not been inclined to pursue compensation for injuries or property damage they've incurred from a defective product.

As China flexes its economic muscles as a global leader

in exporting manufactured products, product liability and the subsequent recall of defective products are risks that Chinese companies are increasingly interested in transferring via insurance to minimize the threat of overseas litigation hitting their bottom lines. But policy wordings and coverage in the Chinese liability insurance market are in their infancy. Marsh is helping clients in China to obtain wider coverage than has previously been available by using its global benchmarking of wordings for specific industry exposures.

### Supply chain interrupted

Product recall is just one issue that potentially could severely disrupt the supply chains of many companies in China. In assessing the viability of a supply chain - the increasingly complex supply network that connects suppliers, manufacturers, distributors, retailers, and customers - companies often undervalue the nature of risk.

Supply chain disruptions can arise from external sources, such

as a natural disaster. They also can come from internal sources, including a failure to integrate all functions in a supply chain or from trying to cut costs.

Many Western companies are increasing their dependence on their outsourcing and supply relationships with companies in Asia for their growth. Asian supply chains can offer substantially lower costs than their Western counterparts and usually reductions in working capital and fixed asset expenses.

As the product recall controversy has highlighted, supply chain disruptions can not only reduce or wipe out those headline savings but also damage a company's reputation.

Asia has many risks in nature and severity. These include property loss and business interruption arising from catastrophic disasters due to floods, typhoons and infrastructure failure, theft of intellectual property, and counterfeiting. Other risks are related to ethical and cultural disparities, including non-compliance with health and safety legislation and environmental laws.

Marsh is experienced in effectively guiding businesses through the complex nature of risk and interconnected supply chains. For further information contact Michael Li on telephone +86 21 6887 3118 or email Michael.Li@marsh.com.

## Marsh Ranked Number One Broker for 36<sup>th</sup> Consecutive Year

Marsh & McLennan Companies, Inc. (MMC) has been ranked as the world's largest insurance broker for the 36th consecutive year by *Business Insurance*, which published its annual 2007 brokerage report in August.

MMC's 2006 brokerage and related services revenue of US\$10.474 billion (79.075 billion yuan) was more than US\$3 billion ahead of its nearest competitor and was roughly equivalent to its three largest rivals combined.

"We're proud that the numbers validate our industry leadership, but the main reason clients choose Marsh more than any other broker is our people," said Marsh Chairman and CEO, Brian Storms.

"In truth, our revenues measure the greatness of our colleagues – specifically, their expertise and passion for serving clients better than anyone else. This honor again belongs to them."

*Business Insurance*, published by Crain Communications for all sectors of the risk and insurance services industry, has a total qualified circulation of more than 43,000 subscribers in finance, risk management, insurance, employee benefits, and related disciplines.

Marsh was also named "Best Global Insurance Broker" by *Reactions* magazine in August. *Reactions* spent months conducting an extensive poll throughout the industry to identify the best firms and people from around the world.

*Reactions* is a leading monthly magazine that provides detailed, global coverage of the insurance and reinsurance industries.

In addition, Marsh was picked as "Best Insurance Broker" in the *Trade Finance Awards for Excellence* by *Trade Finance* magazine. These awards are the result of a reader's poll by the magazine, which covers export and commodity finance.

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**Disclaimer:** The information contained in this publication provides only a general overview of subjects covered, is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Statements concerning legal matters should be understood to be general observations based solely on our experience as insurance brokers and risk consultants and should not be relied upon as legal advice, which we are not authorized to provide. All such matters should be reviewed with the client's own qualified legal advisors in these areas.



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